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PUBLIC UTILITIES COMMISSION

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June 1, 2012

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554

RE: *Ex Parte* Notification
WC Docket Nos. 11-42, 03-109, 12-23; and CC Docket No. 96-45

Madam Secretary:

In accordance with Section 1.1206 of the Federal Communications Commission's ("FCC") rules, 47 C.F.R. § 1.1206, we hereby provide you with notice of an *ex parte* presentation in connection with the above-captioned proceeding.

On Wednesday, May 30, 2012, the following representatives of the Public Utilities Commission of Nevada ("PUCN") had a telephonic conference call with Kimberly Scardino, Deputy Division Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, FCC, and Garnet Hanly of the Wireline Competition Bureau, FCC: Jan Cohen, General Counsel, PUCN; Anna Penrose-Levig, Assistant General Counsel, PUCN; Paul Anderson, Policy Manager, PUCN; Sam Crano, Assistant Staff Counsel, Regulatory Operations Staff, PUCN; and Debrea Terwilliger, Assistant Staff Counsel, Regulatory Operations Staff, PUCN.

The representatives of the PUCN discussed the Petition for Waiver filed by the PUCN in the above-referenced proceedings on May 23, 2012, as well as the comments filed by the PUCN on the Petition for Waiver filed by United States Telecommunications Association on May 15, 2012. More specifically, the PUCN representatives explained the statutory requirements that create a process whereby ETCs are required to automatically enroll Lifeline subscribers twice annually.

As the Petition for Waiver explained, Nevada Revised Statutes ("NRS") 707.480 requires an eligible telecommunications carrier ("ETC") in Nevada to automatically enroll within 60 days any existing customer for Lifeline service if that customer is on the list of eligible customers provided by Nevada's Department of Health and Human Services. The creation and distribution of the list from Nevada's Department of Health and Human Services is controlled by NRS 707.470, which provides that every 6 months Nevada's Department of Health and Human Services "shall provide to

each [ETC] an updated list of the eligible customers in this State.” NRS 707.470(2). Once this list is sent to the ETCs every 6 months, the ETC has 60 days to enroll any of the ETC’s existing subscribers that are on the list from the Department of Health and Human Services.

The PUCN representatives explained that the list was last distributed in April 2012 and will be distributed again in October 2012. As such, the statutory process that envisions automatic enrollment will not begin again until sometime after October 1, 2012, when the Department of Health and Human Services updates its list and distributes that list to ETCs in Nevada.

The FCC representatives also requested additional details related to the process that carriers must undertake to enroll new Lifeline subscribers, including any certifications that the ETCs undergo to ensure that potential subscribers qualify for Lifeline. Nevada Administrative Code (“NAC”) 704.680474 sets forth the criteria for a low-income subscriber to qualify for Lifeline. The regulation requires potential Lifeline subscribers to submit documentation to qualify pursuant to income criteria or program-based criteria. *See* NAC 704.680474(2)-(3).¹ For program-based qualification, the potential Lifeline subscriber can qualify by being on the list distributed by the Department of Health and Human Services or by submitting documentation to the ETC that “proves that the subscriber receives benefits” from one of the programs listed in the Nevada Administrative Code. *See* NAC 704.680474(1)-(2).

Also, as can be seen from NAC 704.680474, Nevada’s current process to reduce duplication of Lifeline service requires that the “residential premises at which the subscriber receives telecommunication service” to be the “principal place of residence of the subscriber.” NAC 704.680474(c). Additionally, the regulations state that the “subscriber must have only one telephone line serving his or her residential premises.” NAC 704.680474(d). The way these regulations work in practice is that an ETC may only enroll a Lifeline subscriber if it can be determined that there is only one Lifeline service connected to the subscriber’s residential premises, which is the principal place of residence for that subscriber.

Additionally, NAC 704.6804743 requires ETCs to verify ongoing eligibility of Lifeline subscribers. If the subscriber fails to provide the updated documentation pursuant to this regulation, the ETC is required to stop providing that subscriber with a Lifeline discount. *See* NAC 704.6804743(2). Pursuant to NAC 704.6804745, an officer or authorized representative of an ETC is required to certify that the ETC is in compliance with the procedures for certifying income and “certify that, to the best of his or her knowledge, documentation of income was presented by each subscriber as required by NAC 704.680474 and 704.6804743.” *See* NAC 704.6804745.

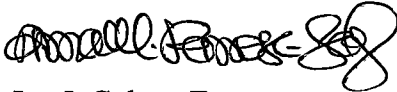
To the extent that these regulations are not consistent with the FCC’s current regulations, the Commission has an open rulemaking docket to consider modification to the PUCN’s regulations. General Counsel’s Office understands that Staff of the PUCN intends to request that the Commission waive any current regulations that are not in conformance with the FCC’s

¹ *See* Attachment A. The Commission has provided an excerpt of the relevant regulations it is citing to in this *ex parte* letter.

regulations, and require ETCs to conform with the FCC's regulations until new PUCN regulations can be adopted. Staff of the PUCN intends to make that request at a workshop on Monday, June 4, 2012, and urge the PUCN to make a determination regarding whether to adopt Staff's recommendation as soon as possible.

If you have any questions or require any additional information, please contact the undersigned counsel.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan J. Cohen".

Jan J. Cohen, Esq.

General Counsel

Anna Penrose-Levig, Esq.

Assistant General Counsel

cc/Kimberly Scardino (via email)

Garnet Hanly (via email)

Anne-Marie Cuneo, Directory of Regulatory Operations Staff, PUCN (via e-mail)

Tamara Cordova, Staff Counsel, PUCN (via-email)

NAC 704.680474 Criteria for eligibility as qualifying low-income subscriber; documentation of qualification. (NRS 703.025, 704.040, 704.210, 704.6873)

1. To be eligible as a qualifying low-income subscriber for the purposes of NAC 704.680475 and 704.680477:

(a) The total household gross income of the subscriber must not exceed:

(1) One hundred seventy-five percent of the federally established poverty levels set forth for the number of persons in the household of that subscriber if a competitive supplier that is an incumbent local exchange carrier provides telecommunication service; or

(2) One hundred fifty percent of the federally established poverty levels set forth for the number of persons in the household of that subscriber if telecommunication service is provided by:

(I) A small-scale provider of last resort;

(II) A competitive supplier that is not an incumbent local exchange carrier; or

(III) A provider of telecommunication service that has filed with the Commission the information required by NAC 704.7862;

(b) The name of the subscriber must appear on the list provided by the Department of Health and Human Services pursuant to NRS 707.470 or the subscriber must receive benefits from one or more of the following programs of assistance:

(1) Medicaid;

(2) Food stamps;

(3) Supplemental security income;

(4) Federal public housing assistance;

(5) Low-Income Home Energy Assistance;

(6) Temporary Assistance for Needy Families program; or

(7) National School Lunch Program;

(c) The residential premises at which the subscriber receives telecommunication service must be the principal place of residence of the subscriber; and

(d) The subscriber must have only one telephone line serving his or her residential premises.

2. To demonstrate the qualification set forth in paragraph (a) of subsection 1, the subscriber must submit to the provider of telecommunication service that serves the subscriber documentation which demonstrates the total household gross income of the subscriber from one or more of the following sources:

(a) The subscriber's most recent federal income or tribal tax return for the subscriber's household; or

(b) All statements of income, as that term is defined in 47 C.F.R. § 54.400(f), for the subscriber's household for 3 consecutive months within the 12 months preceding the anticipated initiation of service to be provided pursuant to a Lifeline program.

3. To demonstrate the qualifications set forth in subparagraphs (1) to (7), inclusive, of paragraph (b) of subsection 1, the subscriber must submit to the provider of telecommunication service that serves the subscriber documentation which proves that the subscriber receives benefits from one or more of the following programs of assistance:

(a) Medicaid;

(b) Food stamps;

(c) Supplemental security income;

(d) Federal public housing assistance;

(e) Low-Income Home Energy Assistance;

(f) Temporary Assistance for Needy Families program; or

(g) National School Lunch Program.

4. The documentation required pursuant to subsection 2 or 3, as applicable, must be presented to and accepted by the provider of telecommunication service before the provider of telecommunication service may enroll the subscriber in the Lifeline or Link Up services. A provider of telecommunication service shall retain such documentation in accordance with 47 C.F.R. § 54.417, as that section existed on September 7, 2005.

(Added to NAC by Pub. Utilities Comm'n by R150-97, eff. 12-11-97; A by R051-05, 9-7-2005; R006-09, 10-27-2009)

NAC 704.6804743 Verification of continued eligibility as qualifying low-income subscriber. (NRS 703.025, 704.040, 704.210, 704.6873)

1. An eligible telecommunications carrier shall verify that each subscriber of the eligible

telecommunications carrier who receives Lifeline or Link Up services remains eligible to receive those services as follows:

(a) To verify the continued eligibility of a subscriber who submitted documentation in accordance with subsection 2 of NAC 704.680474 to establish eligibility to receive Lifeline or Link Up services, the eligible telecommunications carrier shall annually contact the subscriber and request that the subscriber provide to the eligible telecommunications carrier updated documentation in accordance with subsection 2 of NAC 704.680474 which demonstrates that the subscriber remains eligible to receive Lifeline or Link Up services.

(b) To verify the continued eligibility of a subscriber who submitted documentation pursuant to subsection 3 of NAC 704.680474 to establish eligibility to receive Lifeline or Link Up services, the eligible telecommunications carrier shall review the list provided by the Department of Health and Human Services pursuant to NRS 707.470 of persons who are eligible to receive Lifeline or Link Up services. If the name of a subscriber no longer appears on the list, the eligible telecommunications carrier shall contact the subscriber and request that the subscriber provide to the eligible telecommunications carrier updated documentation in accordance with subsection 3 of NAC 704.680474 demonstrating that the subscriber remains eligible to receive Lifeline or Link Up services.

2. If a subscriber fails to provide the updated documentation pursuant to subsection 1 within 60 days after receiving a request for the documentation, the subscriber shall be deemed to be ineligible to receive Lifeline or Link Up services, and the eligible telecommunications carrier shall switch the rate for telephone service for the subscriber to the regular rate for telephone service.

(Added to NAC by Pub. Utilities Comm'n by R051-05, eff. 9-7-2005; A by R006-09, 10-27-2009)

NAC 704.6804745 Certification of compliance with procedures for certifying income established for Lifeline and Link Up programs. (NRS 703.025, 704.040, 704.210, 704.6873) An officer or other authorized representative of an eligible telecommunications carrier shall certify that the eligible telecommunications carrier is in compliance with the procedures for certifying income established for the Lifeline and Link Up programs in this State and shall certify that, to the best of his or her knowledge, documentation of income was presented by each subscriber as required in NAC 704.680474 and 704.6804743. For the purposes of this section, the officer or authorized representative may rely on the information provided by the Department of Health and Human Services as evidence that a subscriber is receiving benefits from a program of assistance described in subsection 3 of NAC 704.680474.

(Added to NAC by Pub. Utilities Comm'n by R051-05, eff. 9-7-2005; A by R006-09, 10-27-2009)